

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

JEFFREY ALLEN ROWE,)
vs. Plaintiff,)
ALAN FINNAN, et al.,) 1:11-cv-524-JMS-MJD
Defendants.)

Entry Discussing Plaintiff's Motion to Relinquish Jurisdiction

The plaintiff=s motion to relinquish jurisdiction is treated as a motion to remand, and finding the motion fully briefed, the court now makes its ruling.

Section 1447(c) of Title 28 provides that a “case” removed from state court “shall be remanded” “[i]f at any time before final judgment it appears that the district court lacks subject matter jurisdiction.”

The plaintiff’s argument for remand is foreclosed by *Wisconsin Department of Corrections v. Schacht*, 524 U.S. 381 (1998). In *Schacht*, the Supreme Court held that § 1447(c) did not require a district court to relinquish its removal jurisdiction over a case with multiple claims once it determined that one of the claims was barred by the Eleventh Amendment. *Id.* at 392. Because “[a]n ordinary reading of the language indicates that [§ 1447(c)] refers to an instance in which a federal court ‘lacks subject matter jurisdiction’ over a ‘case,’ and not simply over one claim within a case,” § 1447(c) does not require remand of the entire case in these circumstances. *Id.* (quoting 28 U.S.C. § 1447(c)). The federal court may hear the claims for which federal jurisdiction exists.

Based on the foregoing, therefore, the plaintiff=s motion to relinquish jurisdiction to Madison Circuit Court [8] is **denied**.

IT IS SO ORDERED.

Date: 06/23/2011


Hon. Jane Magnus-Stinson
United States District Court
Southern District of Indiana

Distribution:

Wade J. Hornbacher
wade.hornbacher@atq.in.gov

David A. Arthur
David.Arthur@atq.in.gov

Jeffrey Allen Rowe
DOC #116017
Pendleton Correctional Facility
Inmate Mail/Parcels
4490 West Reformatory Road
Pendleton, IN 46064